

## Sam Bartlett

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**From:** Anundskaas Gro <Gro.Anundskaas@oed.dep.no>  
**Sent:** lørdag 10. april 2021 13:14  
**To:** Sam Bartlett  
**Cc:** Aamot Lars Erik; Brynildsen Tobias; Andresen, Solveig; Anker Morten; Westborg Helge  
**Subject:** SV: Validation of Beneficial Ownership in Norway (2021) - Draft Secretariat Assessment  
**Attachments:** Validation of Beneficial Ownership in Norway (2021) - Draft Secretariat Assessment - 11 March 2021 - FIN TBR.docx

Dear Sam,

Reference is made to your email dated 11 March with the draft assessment of Validation of Beneficial Ownership disclosure in Norway.

It is our understanding that the aim of EITI is not to have EITI specific procedures, regulations etc. *but to adhere to the principles of good governance, where transparency, disclosures* of important information and stakeholder participation are crucial preconditions. Norway adhere to these principles for the entire economy, including the oil and gas sector. It is taken care of in general legislation which is should. The framing of specific requirements like 2.5. is not necessary compatible with the approach in an OECD-country like Norway.

The work on introducing general BO requirements for companies and other legal entities is complex and challenging, with ever-evolving global expectations and requirements. This must not in any way be interpreted as there being a *reversal* on the decision to implement BO requirements. Furthermore, the work on introducing general requirements on BOs for companies / legal entities has made it seem less sensible and resource-efficient to introduce more targeted requirements for the sectors covered by the EITI standard. The Norwegian BO Act is in line with and implements the relevant parts of EU regulation in this area (Directive (EU) 2015/849 and 2018/843). In addition the Act also reflects relevant elements of the recommendations from the Financial Action Task Force (FATF), which sets the international standard with the aim to prevent global money laundering and terrorist financing. Preparing and implementing new laws and regulations take time, involving Government, Parliament and all stakeholders through consultations. It is expected that relevant regulations could be finalized, and possibly also (partially) enter into force, in 2021.

Regarding the decision to limit the obligation to register to shareholders holding more than 25 % ownership we would like to give the following comment: the threshold of 25 % ownership to be considered a beneficial owner is generally used in countries which have introduced BO registers around the world. We are not aware of any country with a lower threshold. It is important to distinguish between the threshold for identifying BOs and a threshold for publicly identifying *direct ownership* (regardless of whether it is held by a natural or legal person).

As regards a specific requirement to identify PEPs in the register, we would like to point to our comments in the document – a publicly available register over the BOs, including identifying information, could be cross-checked with other sources of information on PEPs to identify BOs that are PEPs. A requirement of the publication of information of PEPs, regardless of where their PEP-relevant position/function is held, would also be difficult to verify, thus lessening the value of the publication.

For more specific comments see the attached draft.

Kind regards

Gro Anundskaas  
Assistant Director General  
Oil and Gas Department  
Ministry of Petroleum and Energy

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**Fra:** Sam Bartlett <SBartlett@eiti.org>

**Sendt:** 11. mars 2021 15:33

**Til:** Anundskaas Gro <Gro.Anundskaas@oed.dep.no>

**Emne:** Validation of Beneficial Ownership in Norway (2021) - Draft Secretariat Assessment

**Viktighet:** Høy

Dear Gro,

I hope this email finds you well.

Please find attached the International Secretariat's draft assessment of Validation of Beneficial Ownership disclosure in Norway (in word and pdf versions). **The Government of Norway, industry and civil society stakeholders are invited to provide comments on the draft assessment by 1 April 2021.** We would be grateful if you could share the assessment with interested stakeholders (e.g., organisations previously represented on the Norwegian MSG). The assessment will then be finalised for review by the EITI Board.

**1. Background.** In June 2019, the EITI Board [agreed a framework for assessing Requirement 2.5 on beneficial ownership](#). To ensure that progress on Requirement 2.5 would be assessed in all countries within a reasonable timeframe, the Board agreed that any country that had achieved overall "satisfactory progress" in Validation that commenced or was concluded in 2019 would undergo a beneficial ownership Validation on 1 January 2021. The Board upheld this decision when [agreeing on the transition to a new Validation model](#).

**2. Method.** The International Secretariat's draft assessment of Validation of Beneficial Ownership in Norway follows the Board-agreed framework for phase 1 of assessing beneficial ownership disclosures. The Board agreed that between January 2020 and December 2021, the Validation would focus on whether the implementing country had met a set of initial criteria and provide recommendations for strengthening beneficial ownership disclosures.

**3. Stakeholder comments.** EITI stakeholders are invited to provide comments on the draft assessment. The assessment will then be finalised for review by the EITI Board. The government may wish to consolidate the comments into a single submission. Stakeholders are also able to send comments directly the EITI International Secretariat. Requests for confidentiality will be respected.

If needed, the International Secretariat can translate the assessment into Norwegian.

In accordance with the usual Validation procedure, stakeholders have three weeks to comment on the draft, i.e., by 1 April 2021. If stakeholders would like to request additional time, please get in touch and we can explore options.

Please get in touch if you have any questions or concerns.

Regards,  
Sam



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# Validation of Requirement 2.5 – Norway: Draft assessment by the EITI International Secretariat

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## 1. Summary

The International Secretariat’s preliminary assessment is that Norway has made “inadequate progress” in meeting the initial criteria for implementing Requirement 2.5 on beneficial ownership.

Norway has enacted legislation to establish a publicly accessible ultimate beneficial ownership (UBO) registry. It will apply to all companies that apply for or hold a participating interest in exploration or production oil, gas or mining licenses. Regulations supplementing the act were subject to public consultation until October 2020. The regulations are being refined and are expected to be finalised in 2021, while a decision on the entry into force is currently pending. The register will be maintained by the Norwegian Enterprise Register (*Brønnøysundregistrene*).

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To date, no beneficial ownership information has been requested from the corporate entities that apply for or hold participating interests in oil, gas and mining exploration or production licenses. Following the establishment of the BO register, it is expected that the requisite information will be available. However, this will need to be verified, including the coverage of legal ownership (available through other sources) and the coverage of politically exposed persons.

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## 2. Background

Norway has been an EITI supporting country since 2003. In 2007, Norway was the first OECD country to commit to implement the EITI. The decision to implement the EITI was primarily intended to demonstrate solidarity with other resource rich countries – “to practice what we preach”. A secondary aim for the government was to demonstrate that the Norwegian extractive sector was transparently managed. The EITI Board accepted Norway as an EITI candidate on 11 February 2009 and designated Norway as compliant with the EITI Rules in 2011. On 27 February 2019, following Norway’s second Validation under the 2016 EITI Standard, the EITI Board concluded that Norway had made “satisfactory progress” in implementing the 2016 EITI Standard (see [Board decision](#)). Norway’s EITI implementation covers the oil and gas sector. The mining sector is not considered as material by the government.

In June 2019, the EITI Board agreed a framework for assessing Requirement 2.5 on beneficial ownership.<sup>1</sup> To ensure that progress on Requirement 2.5 would be assessed in all countries within a reasonable timeframe, the Board agreed that any country that had achieved overall “satisfactory progress” in Validation that commenced or was concluded in 2019 would undergo a beneficial ownership Validation on 1 January 2021. The Board upheld this decision when agreeing on the transition to a new Validation model.<sup>2</sup>

This assessment follows the Board-agreed framework for phase 1 of assessing beneficial ownership disclosures. The Board agreed that between January 2020 and December 2021, the Validation would focus on whether the implementing country had met a set of initial criteria and provide recommendations for strengthening beneficial ownership disclosures.

### Adapted EITI implementation in Norway

On 28 April 2017, Norway submitted a mainstreaming application and associated request for adapted implementation.<sup>3</sup> The Norwegian government argued:

*“an exceptional situation compared to many other resource-rich countries in that there is already a well-functioning data portal, robust and reliable auditing practices, mandatory disclosure requirements in line with EITI Requirements, an eight-year track record demonstrating no material discrepancies between government and company disclosures, and a natural resource governance model built on multi-stakeholder principles. For a mainstreamed EITI process to be meaningful in a Norwegian context, it needs to reflect the fact that Norway already embodies the participatory processes that the EITI seeks to foster in implementing countries. For this reason, the attached request seeks adapted implementation for Requirements 1.1, 1.2, 1.3, 1.4, 1.5, 7.1, 7.2, 7.3 and 7.4 in the EITI Standard, and Phase 6 in the Agreed upon procedure for mainstreamed disclosure (Requirement 4.9(c))”. [Note: These are references to the 2016 EITI Standard].*

According to the proposal, mainstreamed implementation in Norway would consist of (i) continuous stakeholder consultation and dialogue using existing multi-stakeholder platforms and including an annual stakeholder meeting; (ii) continuous disclosure of the information required by the EITI Standard by the government on [www.norskpetroleum.no](http://www.norskpetroleum.no) and by the companies through country-by-country reports, including independent review of material discrepancies if concerns are raised about the reliability of the data disclosed; and (iii) validation every three years in accordance with the EITI Standard.

In October 2017, the Board decided to accept Norway’s request for adapted implementation.<sup>4</sup> In taking this decision, the EITI Board noted that Norway was in an exceptional situation compared to many other resource-rich countries in that there was already a well-functioning data portal providing comprehensive information about the sector, and a natural resource governance model built on multi-stakeholder principles.

In the absence of a multi-stakeholder group (MSG) the International Secretariat has consulted the Ministry of Petroleum and Energy (MPE), which leads on EITI implementation. MPE has in turn provided updates from the Ministry of Finance and the Norwegian Enterprise Register (*Brønnøysundregistrene*). The International Secretariat has also reviewed commentary on beneficial ownership disclosure from Norwegian civil society organisations, including Publish What You Pay

<sup>1</sup> Board decision 2019-48/BM-43: <https://eiti.org/board-decision/2019-48>.

<sup>2</sup> Board decision 2020-83/BM-48: <https://eiti.org/board-decision/2020-83>.

<sup>3</sup> <https://eiti.org/document/norway-mainstreaming-application-request-for-adapted-implementation>

<sup>4</sup> <https://eiti.org/board-decision/2017-49>

(Norway), Tax Justice Network (Norge) and Transparency International. Civil society interest in EITI implementation domestically is limited.

The draft assessment was sent to the government (and stakeholders) on 10 March February 2021. The assessment will then be finalised for review by the EITI Board.

### 3. Assessment of Requirement 2.5 on beneficial ownership

Adherence to Requirement 2.5 on beneficial ownership is assessed in Validation as of 1 January 2020 as per the framework agreed by the Board in June 2019.<sup>5</sup> The assessment consists of a technical assessment focusing on initial criteria and an assessment of effectiveness.

#### Technical assessment

The technical assessment is included in Annex A. It demonstrates that Norway has established a legal basis for collecting and disclosing beneficial ownership information. It is expected that relevant regulations could be finalised, and possibly also (partially) enter into force, in 2021.

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Norway has enacted legislation to establish a publicly accessible ultimate beneficial ownership (UBO) registry in March 2019: The Norwegian Act on register of beneficial owners (*reelle rettighetshavere*) (2019-03-01-2). Draft regulations supplementing the act were published with a deadline for public comments in October 2020. It is expected that parts of the new act and the relevant regulations could enter into force during 2021. It will apply to all companies that apply for or hold a participating interest in exploration or production oil, gas or mining licenses. The register will be maintained by the Norwegian Enterprise Register (Brønnøysundregistrene).

#### Assessment of effectiveness

To date, no beneficial ownership information has been requested for publication from the corporate entities that apply for or hold participating interests in oil, gas and mining exploration or production licenses. Most of the companies are publicly listed and already required to disclose shareholder information in filings on the stock exchanges where they are listed. To the international secretariat's knowledge, there has been no further assessment or/and documentation of gaps or weaknesses in the disclosure of beneficial ownership information.

CSOs have noted that “if successfully established, the public UBO register could significantly improve the transparency and access to information on beneficial ownership in Norway and would fulfil a major long-term priority for civil society in Norway”. However, “Norwegian civil society has criticised the Beneficial Ownership Act as only shareholders holding more than 25 percent of the shares would be obliged to register, and foreign trusts with indirect ownership in Norwegian companies will not be listed”.<sup>6</sup>

#### Secretariat's assessment

Subject to stakeholders' feedback, the International Secretariat's preliminary assessment is that Norway has made “inadequate progress” in meeting the initial criteria for implementing Requirement

<sup>5</sup> <https://eiti.org/document/assessing-implementation-of-eitis-beneficial-ownership-requirement>.

<sup>6</sup> [https://www.opengovpartnership.org/members/norway/commitments/no0061/#\\_edn45](https://www.opengovpartnership.org/members/norway/commitments/no0061/#_edn45).

2.5 on beneficial ownership. To date, no beneficial ownership information has been requested for publication from the corporate entities that apply for or hold participating interests in oil, gas and mining exploration or production licenses. Following the establishment of the BO register, it is expected that the requisite information will be publicly available by end 2021. However, this will need to be verified, including the coverage of legal ownership (available through other sources) and the coverage of politically exposed persons. Information on legal ownership is already available through publication of shareholder information in annual accounts, via the Norwegian Enterprise Register (Brønnøysundregistrene), as well as by the Tax Authority providing media organisations with such information once a year. The act relating to Measures to Combat Money Laundering and Terrorist Financing (the Anti-Money Laundering Act) provides for enhanced customer due diligence measures in relation to politically exposed persons and close family members of and persons known to be close associates of politically exposed persons. The BO register will not include a specification of whether the BOs are PEPs. It is not yet clear whether it will be possible to search the register for PEPs.

**Commented [BT1]:** As the register will be publicly available, searching for PEPs in the register could be a possibility regardless of whether the specific status as a "PEP" is recorded directly in the register.

We would propose the following wording:  
"Since the register will be publicly available and include identifying information on BOs (including date of birth, nationality and country of residence), it is reasonable to expect that the register will make it possible to cross-check the register with other sources to ascertain whether BOs are PEPs."



## Annex A: Technical assessment

EITI Requirement: Beneficial ownership disclosure (#2.5)			
EITI sub-Requirement	Summary of main findings	Source(s) of information	Summary of stakeholder views (if applicable)
<p>The MSG has agreed an appropriate, publicly available definition of the term beneficial owner (#2.5.f)</p>	<p>Norway does not have an EITI MSG.</p> <p>The Ministry of Petroleum and Energy (MPE) leads EITI implementation. MPE notes that the reason for establishing the Register for beneficial ownership is partly due to requirements in international standards/rules, but also as a result of the acknowledgement that access to information on BOs can be difficult to obtain in practice, particularly when companies are owned by foreign entities where access to the information may rely on international cooperation. The commitment has been referenced in OGP action plans.</p> <p>Legislation establishing an ultimate beneficial ownership registry was enacted in March 2019: The Norwegian Act on register of beneficial owners (<i>reelle rettighetshavere</i>) (2019-03-01-2). Draft regulations supplementing the act were published with a deadline for public comments in October 2020. It is expected that the new act and the</p>	<p>MPE self assessment (Feb 2020).</p> <p><a href="https://lovdata.no/dokument/NL/lov/2019-03-01-2/KAPITTEL_2#KAPITTEL_2">https://lovdata.no/dokument/NL/lov/2019-03-01-2/KAPITTEL_2#KAPITTEL_2</a></p> <p><a href="https://lovdata.no/dokument/NLE/lov/2018-06-01-23">https://lovdata.no/dokument/NLE/lov/2018-06-01-23</a></p> <p><a href="https://www.opengovpartnership.org/members/norway/commitments/no0061/">https://www.opengovpartnership.org/members/norway/commitments/no0061/</a></p>	<p>CSOs have noted that “if successfully established, the public UBO register significantly improve the transparency and access to information on beneficial ownership in Norway and would fulfil a major long-term priority for civil society in Norway” However, “Norwegian civil society has criticised the Beneficial Ownership Register as only shareholders holding more than 1 percent of the shares would be obliged to register, and foreign trusts with indirect ownership in Norwegian companies would not be listed” see <a href="#">here</a>.</p>

	<p>relevant regulations could <u>partially</u> enter into force during 2021.</p> <p>The definition of the term “beneficial owner” in the AML Act and the Act on a register for beneficial ownership is based on the FATF Recommendations and applicable EEA legislation (The EUs fourth AML directive – directive (EU) 2015/849). The term “beneficial owner” is defined as a “natural person who ultimately owns or controls the customer, or on whose behalf a transaction or activity is being conducted” (AML Act s2.e). The threshold for filing is direct or indirect ownership/control of more than 25%.</p> <p>The requirements to collect and register information about beneficial owners who control more than 25 % applies to all corporations and other legal entities operating or registered in Norway, including Norwegian limited liability companies (aksjeselskap, AS), public limited liability companies (allmennaksjeselskap, ASA), companies with limited liability (selskap med begrenset ansvar, BA), General Partnerships (ansvarlige selskap, ANS), General Partnerships with shared liability (ansvarlige selskap med delt ansvar; DA), limited partnerships (kommandittselskap, KS), Co-operatives (samvirkeforetak, SA), European companies (europeiske selskap), jointly owned shipping companies (partrederi, PRE),</p>		
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	<p>housing cooperatives (borettslag, BRL), house building cooperatives (boligbyggelag, BBL), and foundations (stiftelser, STI), associations with business activity (næringsdrivende foreninger).</p> <p>A specification of how it should be applied is given in the AML Act as regards the obliged entities of those rules, while a specification for the purposes of the Act on the register has been proposed as part of regulations to the Act. These regulations have been subject to a public hearing and are currently under consideration in the Ministry of Finance.</p> <p>The register will be maintained by the Norwegian Enterprise Register (Brønnøysundregistrene).</p>		
<p><i>There are laws, regulations or policies in place to back establishing and maintaining a public register of beneficial owners (#2.5.a)</i></p>	<p>Pending. See above</p>		
<p>The government's policy and multi-stakeholder group's discussion on disclosure of beneficial ownership is documented (#2.5.b)</p>	<p>Norway does not have an EITI MSG.</p> <p>The relevant proposals for an Act on the Register for beneficial ownership information as well as the Regulations to the Act, have been subject to public hearings, including relevant industry and civil society groups.</p>	<p><a href="#">Høring - Økt åpenhet om informasjon om eiere i aksjeselskaper - regjeringen.no</a></p> <p><a href="#">Høring - Hvitvaskingslovutvalgets utredning NOU 2016: 27 - regjeringen.no</a></p>	

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	In addition, the Norwegian Enterprise Register (Brønnøysund) has established a “reference group” to discuss different aspects of the future registry solution. The Ministry of Finance, which leads EITI implementation in Norway, has participated in one such meeting. The Ministry of Finance also participated in a seminar arranged by Tax Justice Network – Norway.	<a href="#">Høring - forskrifter til lov om register over reelle rettighetshavere - regjeringen.no</a>	
The implementing country has requested beneficial ownership information to be publicly disclosed (#2.5.c)	The Act is not yet in force.  No BO data has been collected or published as part of the EITI process.		
The requested information includes the identity(ies) of their beneficial owner(s), including nationality, country of residence, and identification of politically exposed persons, the level of ownership and details about how ownership or control is exerted (#2.5.c-d)	The information proposed to be filed for UBOs are: <ul style="list-style-type: none"> <li>• Name</li> <li>• Norwegian personal identification number or date of birth (if no PIN)</li> <li>• Country of residence</li> <li>• Citizenship</li> <li>• Name and organisation number or address of any intervening company</li> <li>• Percentage of direct or indirect ownership/control</li> </ul>		

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	<p>The information will not include a specification of whether the BOs are PEPs. However, the act relating to Measures to Combat Money Laundering and Terrorist Financing (the Anti-Money Laundering Act) provides for enhanced customer due diligence measures in relation to politically exposed persons and close family members of and persons known to be close associates of politically exposed persons.</p>		
<p>Any corporate entity(ies) that apply for, or hold a participating interest in an exploration or production oil, gas or mining license or contract have disclosed the information</p>	<p>The norskpetroleum website states that: “At the end of 2020, a total of 37 exploration and production companies were active on the Norwegian shelf: 24 companies as operators and a further 13 as partners in production licences”<sup>7</sup>.</p> <p>It is not clear as to whether there are any existing procedures for collecting this information as part of the MPE’s internal processes. MPE notes that the companies that apply for or hold a production licence pursuant to the Petroleum Act will be subject to the disclosure requirements under the Act. However, this information has not yet been disclosed.</p>	<p>MPE self assessment (Feb 2020).</p>	
<p>The MSG had assessed and documented gaps or</p>	<p>Norway does not have an EITI MSG. Beneficial ownership information has not yet</p>		

**Commented [BT2]:** Additionally, since the information in the register will be publicly available, it is possible to cross-check the information on BOs with available information on PEPs from other sources. See comment and suggested amendment to wording above.

<sup>7</sup> <https://www.norskpetroleum.no/en/facts/companies-production-licence/>

weaknesses in disclosure of beneficial ownership information (#2.5.c)	been disclosed. There has been no public assessment of beneficial ownership disclosures to date.		
The relevant government entity or the MSG has established an approach for participating companies to assure the accuracy of the beneficial ownership information (#2.5.e)	<p>The register for BO information will, to the extent currently possible, utilise information in e.g. the central public register for all natural persons, as well as information in the registers over legal entities and companies. This will contribute to avoiding internally inconsistent data across registers.</p> <p>Furthermore, the EU directive requires the establishment of mechanisms for certain entities (such as obliged entities under the AML legislation) to notify the register when the information registered is deemed incorrect. The relevant entity will get an opportunity to make a judgment of whether the information needs rectification. Information on the notice can become publicly available in case it is not acted upon. This, as well as making the information available to other obliged entities, will contribute to the accuracy of the information in the register.</p>	MPE self assessment (Feb 2020).	
For publicly listed companies, including wholly-owned subsidiaries, the name of the stock exchange has been disclosed and a link included	The requirements for publicly listed companies is addressed in the draft regulations. The required information on publicly listed companies and their wholly-		

to the stock exchange filings where they are listed (#2.5.f)	owned subsidiaries is currently not publicly available.		
Information about legal owners and share of ownership of applicable companies is publicly available (#2.5.g)	Information on legal ownership will not be included in the beneficial ownership register. However, information on legal owners can be obtained directly from the companies themselves. The public accounts <sup>8</sup> must include information on the largest shareholders (10/20 largest, <u>with the possibility to exclude shareholders holding less than 5/1%, dependent on the size of the company</u> ). In addition, an excerpt from the internal systems of the Tax Authority including information on all legal owners is published once a year through media organisations. Thus information on the legal owners is publicly available.	MPE self assessment (Feb 2020).	

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<sup>8</sup> The annual accounts of enterprises which are subject to the accounting obligation are public information. See <https://www.altinn.no/en/start-and-run-business/accounts-and-auditing/accounting/annual-accounts/>. Indeed, the Annual accounts, annual reports and audit reports are all considered public information.